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JUVENILE CURFEW

**A Policy Research Project
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by

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TABLE OF CONTENTS

Section	Page
Abstract	
Introduction	1
Historical and Legal Review	2
Review of Literature or Practice	5
Discussion of Relevant Issues	8
Conclusion/Recommendations	11
Bibliography	

ABSTRACT

In communities all over the nation juvenile crime is a common concern. Police and community leaders are constantly searching for ways to approach this issue. One of the methods of preventing juvenile crime and victimization widely used by cities today is the juvenile curfew. The Purpose of this research project is to explore the possibilities of adopting a juvenile curfew for the City of Marshall Creek. Although statistics indicate a rise in juvenile crime it is important to the city to ensure this is the right approach for our community. It is important that the rights of all concerned are protected while having a positive impact on juvenile crime. Through research there two issues that consistently come to view. The first issue to demonstrate that there is a compelling state interest; and second to narrowly tailor the means to achieve the law's objective.

Through extensive research the writer has examined legal issues, constitutionality, and the effects of juvenile curfew in cities which adopted them. It is the writers opinion that by adopting a juvenile curfew to be used in conjunction with proactive programs will help in prevention of juvenile crime and victimization. The City of Marshall Creek should understand the importance of proactive programs to ensure the ultimate success of a juvenile curfew.

Introduction

Juvenile curfew, is it a deterrent to juvenile crime in the local communities? The purpose of this research project to examine the adaptability of a juvenile curfew for the City of Marshall Creek, to aid in the reduction of juvenile crimes. In today's society with juvenile crime on the rise, law enforcement agencies are consistently seeking more effective ways of preventing these types of crime. This project will attempt to demonstrate the need for a planned crime deterrent geared toward juveniles within the community. The need for a method of preventing crimes such as Burglary of Habitations, Drugs, Criminal Mischief, Vandalism, and Truancy is overwhelming. With the implementation of alternatives to the juvenile courts such as juvenile curfews, education, and juvenile involvement in the Teen Court program this could become a reality. This research project will provide facts on past and current issues of concern such as, constitutionally, court findings, and statistics.

The intended audience of this research is the community, and the Marshall Creek City Council. As the enforcing agency, the Marshall Creek Police Department will use this research for aid in planning the policies and procedures for a juvenile curfew in an effort to impact the juvenile crime in the community.

Multiple sources of research information are used in this project to address issues of constitutionality, court findings, and the overall effect of a juvenile curfew used in other communities. Statistics will be presented to substantiate the need of curfew as a deterrent.

This project will be used to enable the Marshall Creek City Council to come to a sound judgment decision for or against adopting a juvenile curfew for the community. It will examine the impact of curfews on juvenile crime in other communities. This project will clarify legal issues and concerns. The information contained in this research will be used in the decision making process whether or not to adopt a juvenile curfew for Marshall Creek.

Historical, Legal or Theoretical Context

The idea of adopting a juvenile curfew for the City of Marshall Creek was began in 1997. Much discussion of the legalities of a juvenile curfew and the effect on the community has transpired since that time. To fully grasp the concept, we must first understand some history on curfews. One of the first test in court came in the 1800's which did not uphold the concept. In 1898, The Texas Court of Criminal Appeals struck down as unreasonable an ordinance imposing a blanket curfew after 9:00 p.m. for persons under 21 (pigeon 2).

In a more recent turn of events Washington D.C. was on the chopping block as the "Juvenile Curfew Act of 1995," was struck down in October of 1996. "U.S. District Judge Emmet G. Sullivan issued a permanent injunction against the law, ruling that minors possess a fundamental right to free movement to participate in legitimate activities that do not adversely impact the rights of others" (ACLU 1). In further statements, The American Civil Liberties Union, which brought the lawsuit on behalf of a group of minors, parents and businesses, hailed the ruling as an important victory for the rights of young people and families (ACLU 1).

It was also stated that “This ruling makes it clear that curfew laws violate the constitutional rights of children and parents, while doing nothing to make our streets safer, said Authur Spitzer, Legal Director of the ACLU of the National Capitol Area" (ACLU 1). There are two points to be made in the ruling on this case. First, Judge Sullivan carefully considered the evidence presented by the D.C. government in support of the law, and concluded that it simply did not justify the wholesale nullification of the fundamental right to move freely about for the thousands of law-abiding minors of the District (ACLU 1). The second point, He also ruled that the evidence did not support the law's substantial intrusion into the private domain of the family and the rights of parents to make appropriate decisions for their minor children and to raise their children in a responsible manner (ACLU 1). We may note, that the curfew law which was never strongly enforced, was modeled after a similar law in Dallas. Despite the lack of evidence that curfew laws are effective in crime control, many cities have recently adopted or are considering curfew laws (ACLU 2).

The curfew described as one of the strictest in the nation was the San Diego curfew. The San Diego curfew was similar to 90 other cities in the state. Applying the standards of strict scrutiny the Appeals Court said that the law was invalid for three reasons.

1. Its language was too vague. Youths scanning the list of prohibited activities could not be expected to understand exactly what kind of behavior was illegal, the court ruled. The police also had too much discretion in deciding how to enforce the law.
2. The law unfairly blocked teens from exercising their right to free speech. They could not, for example, stay out late to attend a political rally, or to pray at midnight mass.

Writing for the court, Judge Charles Wiggins noted that "the ordinance restricted minors' ability to engage in many of 1st Amendment activities during curfew hours".

3. The curfew burdened parents as well as minors by usurping their rights as guardians.

" The ordinance was an exercise in sweeping state control irrespective of parents' wishes," Wiggins wrote. "Without proper justification, it violates the fundamental right to rear children without undue interference" (ACLU News Wire 1).

Through the course of research we may note that the Supreme Court has never addressed the constitutionality of nonemergency juvenile curfews, and the federal and state courts that have confronted the issue have failed to reach a consensus (Harvard Law Review 1166). It may also be noted that in addition, some courts invoked notions that of substantive due process or equal protection to invalidate... curfews as impermissible limitations on the fundamental rights minor citizens (Harvard Law Review 1166).

Other courts, however have given far less weight to the rights of minors and have upheld juvenile curfew ordinances. Relying on the established doctrine that the "state's authority over children's activities is broader than over like activities of adults. " These courts found that general prohibitions of minors' presence in public areas between certain hours are reasonable in light of cities' interest in protecting children, reducing juvenile crime, and promoting parents' knowledge of their children's whereabouts. (Harvard Law Review 1166).

After research of the legal aspects of curfew's there is no real concrete determination of the constitutionality of juvenile curfews by the judicial system. Take note to a statement made by Benjamin Franklin, 1759 "Those who would give up essential liberty to purchase a little temporary safety deserve neither liberty nor safety" (Hoffman 1).

Through out the research of legal issues, the writer concludes that curfew laws are required to pass a two-pronged test: (1) demonstrate that there is a compelling State interest and; (2) narrowly tailor the means to achieve the law's objective (Juvenile Justice Bulletin April 1996).

Review of Literature and or Practice

In the course of research on juvenile curfew ordinances, the statistics reveal that with the enforcement of curfew's arrest rates will increase due to the fact a new law is in effect which will create new violations. The Phoenix curfew indicates, that between its incremental startup in February 1993, and the end of July 1993, 2,235 juveniles had been picked up and processed through the program. During the first 12 months of the new enforcement program, a total of 5,562 juveniles were contacted for curfew violations. "Where we used to process 1,000 juveniles a year for curfew violations, we are now processing more than 100 a week" (Garrett and Brewster 31).

On an opposite note, During the first year of Cincinnati's curfew, juvenile arrest dropped 18 percent, and crimes involving a juvenile victim decreased 15 percent. In San Antonio, while juvenile arrest rose by 41 percent last year, the third year after the curfew was enacted in 1991, the victimization of youths aged 10-16 plummeted 84 percent (The Detroit News August 1995). The Dallas curfew program includes youth activities such as Law Enforcement Explorers, a School Liaison Unit, Law Enforcement Teaching Students (LETS), supervised midnight basketball (with a curfew exception on tournament nights), and a Police Athletic League (PAL). After three months of enforcement, the police department found that:

- Juvenile victimization during curfew hours dropped 17.7 percent, and
- Juvenile arrest decreased 14.6 percent (Click 57; Juvenile Justice Bulletin April 1996).

In 1992, a partnership was established between the Phoenix Police Department and the Department of Parks, Recreation, and Libraries (PRL) to impact crimes in which the suspect, victim, or both is a juvenile. Statistics show a 10 percent decrease in juvenile arrest for violent crimes in an 11-month period from June 1993 through April 1994 as compared with the period from June 1992 through April 1993 (Juvenile Justice Bulletin April 1996; Garrett and Brewster 31).

The North Little Rock curfew ordinance is a key element in a multifaceted set of solutions that are part of North Little Rock's overall community policing plan.

- Homicide, Rape, robbery, and assault were reduced by 12 percent.
- Burglaries were down 10 percent (Juvenile Justice Bulletin 1996; Noland 61).

Long Beach's curfew/anti-loitering success is difficult to qualify because there is no conclusive way to directly link the strict enforcement of curfew arrest to overall crime rates. However, there is a downward trend in local crimes that can indirectly be attributed to the program. In Long Beach, approximately twice as many crimes per hour are committed during non-curfew hours as during curfew hours. The average number of crimes committed per hour during curfew hours decreased 14 percent from last year. Moreover, gang related shootings are down approximately 23 percent from last year (Ellis 58).

On a different note, under the Illinois Motor Vehicle Code, a person subject to curfew laws is considered driving on an **invalid** license during the curfew hours effecting his or her age group, and the car is subject to seizure (Curfew 1)

Curfew ordinances in Texas fall into three groups; area, nocturnal, and schooltime. A number of cities use a combination of the types although none of the cities use all three. An area curfew applies only to parts of a city designated by streets and blocks. It allows the city council to choose particular trouble spots for a more focused approach.

Nocturnal curfews usually are from 11 :00 p.m. to 6:00 a.m. with later hours usually allowed on weekends. All the current nocturnal curfew laws specify a number of circumstances which are treated exceptionally.

Schooltime curfews are designed to keep juveniles off the streets during school hours, usually 9:00 a.m. to 2:30 p.m. All Texas cities with a daytime curfew use it in combination with one of the other types. Naturally, there are some variations in times of curfew, exceptions, and ages of juveniles included.

City	Type curfew	Age	Exceptions
Austin	Area, Daytime*	Under 17**	6
Corpus Christi	Nocturnal	Under 17**	7
Dallas	Nocturnal	Under 17**	8
Grand Prairie	Nocturnal	Under 17**	7
Houston	Nocturnal, Daytime*	Under 18**	7
Laredo	Nocturnal, Daytime*	Under 17**	8
Lubbock	Nocturnal	Under 17**	8
Pasadena	Nocturnal, Daytime*	Under 18**	7

San Antoino	Nocturnal, Daytime*	Under 17**	7
Wichita Falls	Nocturnal	Under 17**	5

* Daytime, includes schooltime

* **Includes numeric age and under (TELEMASP September 1994).

Discussion of Relevant Issues

There are two key issues to consider when juvenile curfew ordinances are purposed. The first issue the states compelling interest. The second is to narrowly tailor the means to achieve the law's objective. The compelling states interest is to validate the need for a curfew in the community, and to show how the curfew would effect the crime in the community. We must also draft the curfew ordinance so that its contents meets the objective with the least amount of deprivation.

The City of Camden, NJ. bans children between the ages of five and 18 from the streets between 8:30 a.m. and 3:00 p.m. Police department spokesman Lt. Joe Richardson said, "The aim basically of the daytime curfew would be less punitive, but more keeping the kids in school. Why give kids a chance to commit burglaries or participate in a drug deal, or be tempted to do that? We want to give our children as much of a chance as possible to succeed in life" (Nando. Net 1)

In addition to counseling and restitution, curfews are another area where parental accountability may be used to serve the best interest of local communities, the juvenile and the family. Generally, although curfews appear to work better in some cities or towns than others,

they nevertheless are useful tools in reducing juvenile crime. Proper enforcement of a curfew will have a positive impact on the public safety of the neighborhood. Therefore, the Attorney General recommends that municipalities carefully study their needs and the availability of enforcement resources prior to the implementation of a curfew ordinance. (NYSAG 1,2).

There are some important ideas to consider before a community catches the curfew fever or reassesses the effectiveness of a program that is already in place, there are numerous factors to consider. For example, will expensive curfew programs divert resources from prevention programs that provide youth with skills, opportunities, and an alternative to the street? Will programs exacerbate friction between police and youth? When youth are picked up, where are they held and are their due process rights honored? Here is a list of pros and cons of curfew that should be considered:

PROS

- Give a clear message about appropriate norms for youth in the community.
- Help provide clear boundaries, supervision. May help reduce crime.
- Give parents an extra tool to keep children safe; youth who are off the street at night are less likely to be victims of crime.
- Can be part of an outreach program to help at-risk-youth.
- Give police more resources to fight crime in their communities.

CONS

- Turn over parental and community responsibilities to law enforcement
- Could be enforced unevenly, discriminating against youth of color and poor youth.

- Take resources from more constructive programs.
- Can fuel negative stereotypes of youth.
- Evade the real issues, such as lack of constructive programs.
- Might be a violation of youths' civil rights.
- Can create confusion when adjacent communities use different guidelines.

There were seven curfew programs highlighted in the OJJDP bulletin titled "Curfews: An Answer to Juvenile Delinquency and Victimization?", that took the community-based, comprehensive approach. Rather than a reactive, punitive response to curfew violations, these programs emphasize the need to intervene before the level of delinquency escalates (HandsNet 1,2).

It is also important to consider the requirement of the Juvenile Justice and Delinquency Prevention act of 1974 that prohibits a status offender(i.e., a juvenile who has committed an offense that would not be a crime if committed by an adult, such as truancy or curfew violations) or nonoffender(i.e., a dependent or neglected child) from being held in secure detention or confinement. Many cities have established comprehensive, community-based programs that utilize local sites, such as recreation centers and churches, where police can bring curfew violators (HandsNet 2).

The use of these facilities as well as volunteer and social groups can also help to offset the expense associated with juvenile curfews. It also reduces the cost associated with the use of the courts, and the Juvenile Justice system, such as probation's, and detention centers. These alternatives would also allow the beat officer to return to service in the least amount of time.

This adds up to cost control for the city as well as the citizens.

Conclusion/ Recommendations

The purpose of this research paper is to examine the adaptability of a juvenile curfew for the City of Marshall Creek. The research will aid the city to come to a sound decision whether or not to adopt a juvenile curfew or not. It will also enable the Marshall Creek Police Department in writing policies and procedures for implementing a juvenile curfew.

With the rise of juvenile crime cities are searching for a logical answer to address the problem with the least amount of conflict in the community. Cities should also look at programs that are proactive in nature to assist in the success of a juvenile curfew. These programs should be implemented in conjunction with a curfew, and should involve a community effort in the reduction of juvenile crime and victimization.

Some of the issues examined by this research are constitutionality, violation of child rights, a writing an ordinance that will be in accord with these findings. It is necessary for the ordinance to show a compelling states interest, and tonarrowly tailor the means to achieve the law's objective. It is suggested, however, that such compelling interest are not necessary to justify a juvenile curfew, because children differ from adults in ways relevant to the extent of protection that should be accorded their freedom of movement(Michigan Law Review 126). We must keep in mind that, because of their lack of experience, juveniles are particularly susceptible to becoming victims of older perpetrators.

The younger a person is, the more likely he or she is to be a victim of crime (Hennepin County 1, Waco 1).

In conclusion the writer believes that a juvenile curfew, in conjunction with a proactive set of programs may indeed have an impact on juvenile crime and victimization in Marshall Creek. City officials who support curfews believe they have a compelling interest to reduce juvenile crime and victimization, while promoting juvenile safety and well being (Ruefle and Reynolds 349). To insure the success of a juvenile curfew, the police department should actively enforce the curfew, and the community should be active in the development of programs to enhance the effect of the curfew on juvenile crime and victimization. The curfew ordinance should be evaluated annually to look at the effect on the community as a whole. With these points in mind the curfew will help enrich life in the community and strengthen relationships between police and the community.

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